



OFFICE OF THE SECRETARY OF STATE  
STATE OF GEORGIA  
BOARD OF CEMETERIANS

---

IN THE MATTER OF

Lakewood Memory Gardens South LLC

Respondent.

---

:  
:  
:  
:  
:  
:  
:  
:

Case Number: ENCE-0390

**NOTICE OF OPPORTUNITY FOR HEARING**

**TO: Lakewood Memory Gardens South LLC  
325 Greens Lake Road  
Rossville, Georgia 30742**

**PLEASE TAKE NOTICE** that the Secretary of State of the State of Georgia ("Secretary") by and through the State Board of Cemeterians ("Board") intends to issue the Proposed Order ("Order") attached hereto to **Lakewood Memory Gardens South LLC** ("Respondent," "LMG," or "Cemetery") pursuant to the Georgia Cemetery and Funeral Services Act of 2000, O.C.G.A. § 10-14-1, *et seq.* ("Act"). The Order is being proposed based on information known to the Secretary at the time this Notice of Opportunity for Hearing was issued and may be amended or modified at any time prior to its entry.

Pursuant to O.C.G.A. § 10-14-23, Respondent is hereby notified that within ten (10) days after receipt of a request for a hearing in a record from Respondent, this matter will be scheduled for a

hearing unless another date and time is otherwise agreed to by the parties. If Respondent does not request a hearing and none is ordered by the Secretary within ten (10) days after the date of service of this Order, this Order will become final as to Respondent by operation of law. If a hearing is requested or ordered, the Secretary, after notice of opportunity for hearing to Respondent, may modify or vacate this Order or extend it until final determination.

**1. GROUNDS.** The grounds for the issuance of this Order are that Respondent engaged in conduct in violation of O.C.G.A. § 10-14-17.

**2. REQUEST FOR HEARING.** Pursuant to O.C.G.A. § 10-14-23, this Order may be entered by the Secretary unless Respondent requests a hearing within ten (10) days of receipt of this notice. A request for hearing may be delivered to the attention of Noula Zaharis, Director, Office of the Secretary of State, Securities and Charities Division, 2 Martin Luther King Jr. Dr., SE, Suite 317 West Tower, Atlanta, GA 30334 or by electronic mail at [nzaharis@sos.ga.gov](mailto:nzaharis@sos.ga.gov).

**3. PROCEDURE FOR REQUESTING A HEARING.** If the Respondent requests a hearing, the request for hearing must be in writing and contain the following information as required by Rule 590-3-1-.05 of the Rules of Office of Secretary of State (hereinafter, the “Rule” or “Rules”):

- a title which indicates the nature of the proceedings;
- the complete name and address of the person or persons on whose behalf the request is filed;
- the name and address of all other persons known to have a legal interest in the proceedings;
- if the person or persons on whose behalf the request is filed are represented by counsel, the name and address of counsel;
- a clear and concise statement of the facts upon which the contested case arises;
- a prayer setting forth the relief sought; and
- a statement of the grounds upon which the person contends he is entitled to the relief sought.

**4. SCHEDULING OF HEARING.** If requested, a hearing will be scheduled before a Hearing Officer appointed by the Secretary, the ultimate decision maker in this matter, in no less than fifteen (15) days but not earlier than five (5) days after the request is made, unless otherwise agreed to by the parties.

**5. ISSUES TO BE ADDRESSED.** If a hearing is requested, the issues to be addressed are set forth in the attached Order that is incorporated herein by reference and made a part of this Notice of Opportunity for Hearing.

**6. CONTESTED CASES.** This is a contested case proceeding and pursuant to the Rules it shall be conducted as expeditiously as possible, with regard to the rights of the parties, and in a manner to enable the parties to obtain relevant information needed for preparation of the case to the extent that such disclosure is authorized or required by law.

**7. LEGAL AUTHORITY AND JURISDICTION.** This Notice of Opportunity for Hearing is issued pursuant to O.C.G.A. § 43-17-23, Rule 590-3-1-.05, and O.C.G.A. § 50-13-1 *et seq.* (The Georgia Administrative Procedure Act).

**8. INFORMAL CONFERENCE.** Respondent may request an informal conference with the Division Director pursuant to Rule 590-3-1-.05. The receipt of a written request for an informal conference will toll, until the date that such conference is scheduled, the running of the time for requesting and setting a hearing. A request for hearing that does not contain the required information as outlined above will be treated as a request for an informal conference. Further information regarding an informal conference may be obtained by contacting Noula Zaharis at (470) 312-2787 or [nzaharis@sos.ga.gov](mailto:nzaharis@sos.ga.gov).

**9. RIGHTS OF PARTIES.** The parties to this matter shall have all of the rights provided for


in the Act, the Rules and the Georgia Administrative Procedure Act, including but not limited to the following:

- To subpoena witnesses and documentary evidence;
- To secure testimony by deposition or interrogatories if authorized or directed by the Hearing Officer;
- To be represented by legal counsel; and
- To respond and present evidence on all issues involved.

SO ORDERED this 20<sup>th</sup> day of May 2021.

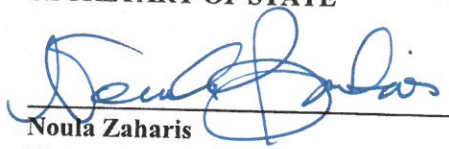
**BOARD OF CEMETERIANS**

By:

  
Richard Parker  
Chairman

By:

**BRAD RAFFENSPERGER  
SECRETARY OF STATE**

  
Noulia Zaharis  
Director  
Securities and Charities Division



**OFFICE OF THE SECRETARY OF STATE  
STATE OF GEORGIA  
BOARD OF CEMETERIANS**

---

**IN THE MATTER OF**

**Lakewood Memory Gardens South LLC**

**Respondent.**

---

:  
:  
:  
:  
:  
:  
:  
:

**Case Number: ENCE-0390**

**ORDER TO CEASE AND DESIST AND IMPOSITION OF CIVIL PENALTY**

This matter comes before the Secretary of State of the State of Georgia ("Secretary") by and through the Board of Cemeterians ("Board") pursuant to the authority granted in O.C.G.A. § 10-14-14, *et seq.* of the Georgia Cemetery and Funeral Services Act of 2000, as amended ("Act"). Whereas, the Secretary undertook an investigation into the acts and practices of Lakewood Memory Gardens South LLC. ("LMG," "Respondent," or "Cemetery").

Based on the investigation, the Secretary has found grounds to conclude that Respondent may have engaged in acts or practices constituting violations of the Act. The Secretary has determined it is in the public interest to issue this Order.

Based upon information obtained during the investigation, the Secretary finds as follows:

**FINDINGS OF FACT**

1. LMG is located at 325 Greens Lake Road, Rossville, Georgia 30742.
2. LMG is registered with the Securities and Charities Division ("Division") of the Office of the Secretary as a Perpetual Care Cemetery pursuant to O.C.G.A. § 10-14-3(28). LMG has been registered with the Division since August 6, 2011.

3. LMG lists its Perpetual Care Trust address as 3600 Horizon Blvd, Suite, 100, Feasterville Trevose, Pennsylvania 19053. LMG lists Diana Burkholtz as its Owner/Manager, as well as its Director of Trust.

4. On April 12, 2021, the Securities and Charities Division (“Division”) sent an inspector from the Secretary’s office to inspect the site and report on the condition of LMG’s care and maintenance. The inspector took three hundred thirty-six (336) photos (“Photo(s)”) of the Cemetery and submitted a questionnaire to LMG to address the inspector’s findings. The inspector’s findings are described in detail below.

*a. Grounds*

5. The inspector found the conditions of the grounds in an inadequate state. The inspector observed many barren areas in the grounds where no grass grew. Further, the inspector stated that very few barren areas were partially replaced with sod, but no barren area was completely covered with sod. The inspector reported that only one barren site on the grounds contained any grass seed, and that the use of hay was very sporadic, resulting in locations with very barren areas having little or no grass.

6. The inspector also reported that in most areas of the grounds grass needed cutting and the grounds needed to be treated for weeds.

7. The inspector also reported damage caused by vehicles and heavy equipment driving across the grounds. The inspector stated that by comparing the vehicle tracks in comparison to the roadways, it appeared that instead of using the asphalt road to travel to and from burial areas, LMG allowed vehicles to take shortcuts across the grounds causing damage to grass and markers. The travel pattern across the grounds included a new mausoleum area that had dirt and mud stains on the asphalt due to heavy equipment cutting through the grounds. In fact, during his visit the Inspector observed the maintenance crew drive a backhoe through the grounds and directly over several markers. All in all, the inspector reported at least three (3) areas of the grounds where heavy equipment so appeared to cross frequently causing substantial damage to the grounds.

8. The inspector also observed trash littering various areas of the grounds, particularly along the wood line of the grounds. Further, the inspector reported over a dozen (12) water bottles left on the ground at various areas of the grounds.

9. The Photos provided by the inspector show the grounds in an abysmal condition. The Inspector provided one hundred fifty-six (156) Photos of the grounds. Photos show a large number



of barren patches of grass. Further, with a few exceptions, these barren areas contain no suggestion of restorative efforts, such as grass seed, hay, or sod. The soil in these barren areas is dry and rocky, and appears to be unfit for purposes of growing new grass. Further, Photos show large holes in the grounds filled with dirty standing water.

10. Photos show inconsistent length in the grass on the grounds. Many Photos show long grass that is in need of cutting. Further weeds appear to be present throughout the grounds. The Photos also show several bushes that are unkempt and overgrown, indicating that they have been neglected for an extended period of time.

11. The inspector provided thirty-four (34) Photos that show large areas of damaged grounds bearing track marks, indicating that LMG allowed heavy machinery to cut across the grass rather than travel along the Cemetery's road system. Many of these track marks either run alongside or through grave markers, indicating that LMG allowed heavy equipment to drive directly over graves. Many of these track marks show no sign or suggestion of grass re-growing, and Photos do not show evidence of reparative efforts aimed at restoring damage caused by tracks. Many pictures show areas which appear to have been driven on so frequently that the grass has been completely worn away, leaving behind barren, dry, and rocky soil.

12. The inspector provided seventeen (17) Photos that trash littered across the Cemetery's grounds. This littering is particularly evident along the wood line of the grounds. This trash includes used water bottles, empty food wrappers, discarded flowers, large dead branches, and plastic bags.

#### ***b. Graves***

13. The inspector likewise found the gravesites in poor condition. The inspector observed sinking and settling in many of the graves. Further, the inspector observed that many graves were barren with no grass, and covered with rocky and gravelly topsoil that was ill-suited for the growth of new grass. The inspector did not observe any grass seed or hay for new growth on any of these graves, and stated that very few appeared to bear sod.

14. The Photos reflect the inspector's findings. Many graves appear barren, with arid, rocky soil. Most of these graves do not bear any indication of restorative efforts, such as grass seed, hay, or sod. Additionally, based on the dates recorded on their markers, many of these graves appear to have been neglected for an extended period of time. In fact, Photos show no less than two (2) graves from 2020, two (2) grave from 2018, one (1) grave from 2016, one (1) grave from 1996,

and one (1) grave from 1994 covered with grassless topsoil with no evidence of any restorative efforts, such as laying grass seed or sod, indicating extensive neglect for the care and maintenance of graves.

15. Further, the Photos show a large degree of sinking in numerous graves. For example, several photos show graves that appear to have collapsed in on themselves. Other Photos show graves that have sunken several inches, with several that have sunken at least six (6) inches.

*c. Headstones, Markers, and Monuments*

16. The inspector reported a several issues related to the conditions of headstones, markers, and monuments. The inspector observed that many markers appeared to be sinking.

17. The inspector also observed that many markers were obscured by overgrown with grass and weeds and overrun with ant beds, which the inspector described as a “rampant issue,” as well as chronic soiling and staining of markers. The inspector determined that it is likely that the lack of grass, grass seed, and hay various areas where the ground is disturbed may be contributing to this soiling.

18. The inspector reported a large number of broken or damaged markers, to which the inspector stated there is evidence to the cause. The inspector observed tire tracks running over broken markers. Further, as described above in subsection a., the inspector witness maintenance crew members drive a backhoe directly over several markers.

19. Photos provided to the Division support the inspector’s findings. The inspector provided two hundred seventy-three (273) depicting various issues regarding the care and maintenance of markers.

20. Photos that display unlevel markers showing various degrees of sinking. Many Photos show unlevel markers due to sinking. Other Photos show markers that have sunken to such an extent that not only are the bottoms of markers exposed, but a visible gap can be seen beneath the bottom of these markers.

21. Other Photos reveal markers that are damaged or in a state of disrepair. Many Photos show markers that broken down the middle with the name plates on top bent and curled as if crushed by a heavy object. Indeed, several photos show track marks leading to markers or directly over markers, indicating that LMG allowed vehicles or heavy equipment to drive directly over markers.



22. Other Photos show markers that appear to be soiled or obscured due to the negligence of LMG's maintenance staff. Many photos contain markers that are caked with dirt and mud so that the names on them are not fully legible.

#### ***d. Roadways***

23. The inspector reported a number of issues with the condition of the Cemetery's road system. The inspector observed several potholes, cracks, and asphalt covered in mud. Further, the inspector observed grass and weeds growing in fissures in various areas of the asphalt along the road system. The inspector reported evidence relating to possible resurfacing of the roadways from the past that either did not hold, or had worn out due to neglect over an extended period of time. Lastly, the inspector reported evidence of a possible issue with the road drainage system due to several broken drains, resulting in damage and staining from prior standing water, dirt, silt, and rock wash accumulating in the roadways.

24. The Photos support the inspector's findings. Throughout the Cemetery, roads show signs of time-related damage, such as erosion and fissures from heat-related expansion, out of which grow grass and weeds. The Photos also show numerous potholes in the road system. Most of these potholes have not been addressed with any reparative measures, such as gravel, quick-drying cement, or new asphalt, and what few potholes have been filled with gravel appear to have been emptied or mostly emptied over time.

25. The Photos also show numerous curbside drains that have eroded or broken. In fact, at some locations, these drains have appeared to have broken away completely, resulting in large segments of road with no curbside drain.

26. the Photos also depict concrete walkways showing significant damage. Much of the walkways are cracked and unlevel, out of which grow grass and weeds. Other parts of the walkways have completely broken off.

#### ***e. Questionnaire***

27. As a part of his inspection, the inspector submitted a questionnaire to LMG prepared by Division. The questionnaire requested information regarding what systems, if any, LMG has in place for the purpose of processing complaints by the Cemetery's visitors as well as what systems, if any, the Cemetery uses for logging and addressing care and maintenance work orders. To date, LMG has not provided any response to this questionnaire.

## CONCLUSIONS OF LAW

28. Paragraphs 1 through 27 are incorporated by reference as though fully set forth herein.

29. The Secretary has jurisdiction over this matter pursuant to the Act. *See* O.C.G.A. §§ 10-14-14 and 10-14-19.

30. Pursuant to O.C.G.A. § 10-14-19(a)(1) of the Act, if the Secretary determines:

that any person has engaged in, or is engaging in, or is about to engage in any act or practice or transaction which is prohibited by this chapter or by any rule, regulation, or order of the Secretary of State promulgated or issued pursuant to any Code section of this chapter or which is declared to be unlawful under this chapter, the Secretary of State may...[i]ssue an order, if he or she deems it to be appropriate in the public interest or for the protection of consumers, prohibiting such person from continuing such act, practice, or transaction, subject to the right of such person to a hearing as provided in Code Section 10-14-23.

31. Pursuant to O.C.G.A. § 10-14-19(f) the Secretary is authorized to impose a “civil penalty not to exceed \$10,000.00 for a single violation and not exceeding \$100,000.00 for multiple violations in a single proceeding or a series of related proceedings.”

32. Respondent LMG is registered with the Division as a perpetual care cemetery pursuant to O.C.G.A. § 10-14-4. Thus, LMG is subject to discipline under the Act.

33. Pursuant to O.C.G.A. § 10-14-17(i), “[i]t shall be unlawful for any owner or operator of a perpetual care cemetery to fail to provide care and maintenance for the cemetery.”

34. Pursuant to O.C.G.A. § 10-14-3(6):

“Care and maintenance” means the perpetual process of keeping a cemetery and its lots, graves, grounds, landscaping, roads, paths, parking lots, fences, mausoleums columbaria, vaults, crypts, utilities, and other improvements, structures, and embellishments in a well cared for and dignified condition, so that the cemetery does not become a nuisance or place of reproach and desolation in the community. As specified in the rules of the Secretary of State, care and maintenance may include, but is not limited to, any or all of the following activities: mowing the grass at reasonable intervals; raking and clearing the grave spaces and adjacent areas; pruning of shrubs and trees; suppression of weeds and exotic flora; and maintenance, upkeep, and repair of drains, water lines, roads, buildings, and other improvements. Care and maintenance may include, but is not limited to, reasonable overhead expenses necessary for such purposes, including maintenance of machinery, tools, and equipment used for such purposes. Care and maintenance may also include repair or restoration of improvements necessary or desirable as a result of wear, deterioration, accident, damage, or destruction. Care and maintenance does not

include expenses for the construction and development of new grave spaces or interment structures to be sold to the public.

35. Respondent LMG has engaged in a persisting and systemic failure to provide for care and maintenance for the Cemetery. LMG has not provided landscaping for the Cemetery grounds, including failing to properly treat the grounds for weeds and failing to properly mend barren areas in the grass. LMG has failed to take the proper measures to correct these care and maintenance issues.

36. LMG has further failed to provide for care and maintenance for the Cemetery by failing to repair and mend the ground from damage caused by allowing vehicles and other heavy machinery to drive across its grounds. LMG has failed to take the proper measures to correct these care and maintenance issues.

37. LMG has further failed to provide for care and maintenance for the Cemetery by failing to maintain the Cemetery's road system and for its failure to repair potholes, fissures, and other deterioration and erosion in the road system. LMG has failed to take the proper measures to correct these care and maintenance issues.

38. LMG has further failed to provide for care and maintenance for the Cemetery by failing to keep its graves in a dignified condition by allowing graves to sink and become bare, and has failed to provide remedial maintenance to return graves to a dignified condition. LMG has failed to take the proper measures to correct these care and maintenance issues.

39. LMG has further failed to provide for care and maintenance for the Cemetery by failing to repair damage caused to markers and headstones by LMG's care and maintenance staff. LMG has failed to take the proper measures to correct these care and maintenance issues.

40. These activities described in paragraphs 35 through 39 are violations of O.C.G.A. § 10-14-17(i). These violations are actionable events pursuant to O.C.G.A. § 10-14-19; therefore, Respondent is subject to discipline.

### **ORDER**

**WHEREFORE**, by the authority vested in me as the Secretary of State for the State of Georgia, **IT IS HEREBY ORDERED**:

1. That **LAKEWOOD MEMORY GARDENS SOUTH LLC** immediately **CEASE AND DESIST** all violations of the Georgia Cemetery and Funeral Services Act of 2000, as amended.

2. **LAKEWOOD MEMORY GARDENS SOUTH LLC** pay a **civil penalty** in the amount of one hundred thousand dollars (\$100,000.00).

3. **LAKEWOOD MEMORY GARDENS SOUTH LLC** remit payment of the Secretary's **cost of investigation** in the amount of one thousand five hundred dollars (\$1,500.00) to the Secretary due within thirty (30) days of the entry of a Final Order by the Secretary.

The entry of the Order is deemed to be in the public interest and shall not be deemed to constitute findings or conclusions relating to other persons unrelated to Respondent and shall not be deemed to be a waiver or estoppel on the part of the Secretary from proceeding in individual actions against any person who may have violated the Act or any transactions not specifically referred to herein or not known to the Secretary at the time this Order was issued.

**SO ORDERED** this \_\_\_\_ day of \_\_\_\_ 2021.

**BOARD OF CEMETERIANS**

**BRAD RAFFENSPERGER**  
**SECRETARY OF STATE**

By: \_\_\_\_\_  
**Richard Parker**  
**Chairman**

By: \_\_\_\_\_  
**Noula Zaharis**  
**Director**  
**Securities and Charities Division**